

## **SECTION XVIII: SMALL BUSINESS PARTICIPATION**

### **A. Objective (49 CFR Part 26.39)**

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, the City seeks to implement a small business element into its current DBE policy in accordance with applicable law. The City is including this element to facilitate competition by and expand opportunities for small businesses. The City is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The City will meet its objectives using a combination of the following methods and strategies:

#### **1. Set asides:**

Where feasible, the City will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A “set-aside” is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the City and its prime contractors/ consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner’s gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This determination will be made based on the estimated availability of small businesses able to provide the requisite scopes of work regardless of DBE status. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and DBELO will document why a small business set-aside is inappropriate and the factors which were considered in making that determination, including project scope and estimated availability of firms.

#### **2. Unbundling:**

The City, where feasible, may “unbundle” projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The City will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be “unbundled” or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. Similarly, the City will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses.

The City will assist prime contractors or prime consultants in identifying portions of work which may be unbundled and performed by small businesses. The City will document the factors used to determine whether or not an FAA-assisted contract will be unbundled or bid separately.

As described above, the City may utilize several methods to facilitate small business participation. In each FAA-assisted contract, the DBELO will document the method in which the small business element will be implemented (i.e. set-aside, unbundling or outreach) and the process by which those methods were considered.

## **B. Definitions**

### **1. Small Business:**

Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121). A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period.

### **2. Disadvantaged Business Enterprise:**

A for-profit small business (as defined by the Small Business Administration) —

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
- Whose average annual gross receipts, as defined by SBA regulations over the firm's previous three fiscal years is less than \$23.98 million
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a DBE by the Alabama Department of Transportation (ALDOT) in accordance with 49 CFR 26.

For the purposes of the small business element of the City's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

### **C. Certification and Verification Procedures**

The City will accept the following certifications for participation in the small business element of the City's DBE Program with applicable stipulations:

1. ALDOT DBE Certification – DBE Certification by the ALDOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by ALDOT.
2. ALDOT Small Business Enterprise (SBE) – Will require submittal of three years of business tax returns and page 2 of the ALDOT DBE Certification application after contract award.
3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124) - will require submittal of three years of business tax returns.

Special Note: Minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation.

### **D. Implementation Schedule**

The City will approve the small business element of the Small Business Participation element of the DBE Program and will implement it within two months of the FAA's approval of this element.

### **E. Assurances**

The City makes the following assurances:

1. The DBE Program, including its small business element is not prohibited by state law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;
3. There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the DBE Program is open to small businesses regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.